

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Bail Appl.No.1631/2008**

% **Date of decision : 04.08.2008**

Yash Rajput Petitioner
Through: Mr.Sangram S. Saron, Advocate

Versus

The State NCT of Delhi Respondent
Through : Mr.Amit Sharma, APP for the State.

CORAM :-

* **HON'BLE MR. JUSTICE ANIL KUMAR**

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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The petitioner who is in custody since 14th April, 2007 and is accused of murdering Deepak Gupta who was allegedly having an affair with Bhawna Rajput, petitioner's sister, is seeking bail.

Charges had been framed in the case and the case is stated to be listed before the trial Court on 15th, 16th & 17th September, 2008. The bail application No.599/2008 was filed by the petitioner, which was disposed of by order dated 28th April, 2008 by this Court directing the petitioner to apply for bail in the first instance before the trial Court,

after recording of evidence of Ms.Bhawna Rajput and Mr.Sandeep Aggarwal.

The petitioner along with Rajneesh Dahiya and Yashu Saini applied for bail in S.C No.157/2007, State v. Rajnish Dahiya & Ors. By order dated 28th July, 2008 Rajneesh Dahiya and Yashu Saini have been admitted to bail on their furnishing personal bonds in the sum of Rs.50,000/- each with one surety each of the like amount. However, the bail application of the petitioner has been dismissed.

The learned counsel for the petitioner has pointed out the discrepancies between the time of death as indicated in the post mortem report and the other statements. The learned counsel for the petitioner has emphasized that there are no finger prints and strangulation marks and no recovery has been made. It is also contended that major witnesses have not supported the prosecution version and even the sister of the accused who was allegedly having an affair with the deceased has retracted from her statement. It is also stated that there is no ill will among the two families and in the circumstances it is prayed that the petitioner be released on bail.

The accused had made two calls from mobile No.997148476 installed at STD Booth I-50, Hari Nagar Extension, Badarpur to the mobile phone No.9818991718 of the deceased at 12.28 AM and 12.31 AM respectively. According to the prosecution case deceased Deepak

Gupta was last seen in the company of the petitioner and his dead body was found on the morning of 26th June, 2007.

According to the prosecution, last call was made from the mobile phone of Deepak Gupta bearing No.981899178 to the mobile No.9990077791 of the accused and the Cell I.D of accused at that time was of Jaitpur Extension which is near the STD booth of Sandeep Aggarwal. Even if the witness Sandeep has become hostile the mobile record can establish his presence near the STD booth.

Shyam Lal, brother of the deceased is yet to be examined. The evidence pertaining to the mobile record is also to be established. The offence alleged is heinous and keeping in view the totality of facts and circumstances it will not be appropriate to grant bail to the petitioner at this stage. The bail application is, therefore, dismissed.

August 04, 2008
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ANIL KUMAR, J.